

REMARKS

Claims 21-41 were pending in the application. Claims 21, 32, 34 and 41 have been amended. The amendments are supported fully by the specification as originally filed and do not represent new subject matter. Upon entry of these amendments, Claims 21-41 will be pending. Claims 21, 32, 34, and 41 are independent.

Claims 21 – 41 stand rejected under 35 USC 112, first paragraph on written description grounds. The Examiner took the position that the previous amendment introduced new matter with respect to the degree of branching and crystallinity. Accordingly, the claims now recite simplified product-by-process language to define the resistant starch to be used in the claimed foods.

Claims 21 – 41 are rejected under 35 USC 103(a) as being obvious over Kossman *et al.* in view of Henley *et al.* and Zallie *et al.*

Kossman *et al.* is cited for production of linear alpha-1,4 glucans from sucrose using amylosucrase, but the Examiner concedes that the Kossman *et al.* does not disclose the use of the glucan for production of resistant starch. Henley *et al.* and Zallie *et al.* disclose that linear alpha-1,4-glucans are suitable for the production of resistant starch. However, those processes start with *soluble* starch. In fact, retrogradation normally is carried out only on water-soluble starch. See e.g., Zallie *et al.* column 3, lines 26 – 37 and Henley *et al.* column 2, lines 19 – 36. However, the present invention recites a water-*insoluble* glucan as the starting material.

The term “retrogradation” is defined in Rompp’s Dictionary of Chemistry as follows: “This expression comprises all processes leading to a gradual but irreversible process of becoming insoluble of an agglutinated colloidal starch solution. Retrogradation starts already when the starch solution is cooling down and shows a two-phased process [applicant’s own translation].

In the present invention, only water-insoluble starting polyglucans are used. Given that retrogradation is a process of insolubilizing starch, it would not have been obvious to a skilled person to carry out retrogradation on a starting material that was already insoluble. Accordingly, the invention would not have been obvious within the meaning of 35 USC 103(a).

CONCLUSION

Applicants submit respectfully that the present application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and an early Notice of Allowance are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3500. All correspondence should be directed to our address given below.

AUTHORIZATION

Applicants believe there is no fee due in connection with this filing. However, to the extent required, the Commissioner is hereby authorized to charge any fees due in connection with this filing to Deposit Account 50-1710 or credit any overpayment to same.

Respectfully submitted,



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